

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
MARY A. CLARKE,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.
----- X

ECF CASE

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

07 Civ. 8450 (GEL)

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Mary A. Clarke ("Plaintiff"), and the United States of America (the "United States"), that Plaintiff's claims against the United States in the above-entitled action be settled and compromised on the following terms and conditions:

1. Plaintiff's claims against the United States in the above-captioned action are hereby dismissed with prejudice, and without interest, costs, or fees.
2. This Stipulation and Order of Settlement and Dismissal ("Stipulation") shall not constitute an admission of liability or fault on the part of the United States, or any present or former department, agency, agent, official, or employee of the United States.
3. The United States shall pay to Plaintiff the sum of \$5,000.00 (Five Thousand Dollars) (the "Settlement Amount").
4. Payment of the Settlement Amount set forth in paragraph three above shall be made by the United States by Electronic Funds Transfer payable to "Mary A. Clarke and her attorney, Harnick & Harnick, Esqs." in the amount of \$5,000.00. This payment shall be issued only after execution by the parties and entry by the Court of this Stipulation.

5. The Plaintiff agrees to accept the Settlement Amount in full settlement and satisfaction of any and all claims and demands that she, or her heirs, executors, administrators or assigns had or may hereinafter acquire against the United States, or any present or former department, agency, agent, official or employee of the United States on account of the events, circumstances or incidents giving rise to this lawsuit and claims incident thereto, namely Plaintiff's slip and fall outside of 26 Federal Plaza, on October 13, 2005. The Plaintiff hereby releases and forever discharges the United States, including its departments, agencies, agents, officials, and employees, from any and all claims and liability arising directly or indirectly from the subject matter of this action.

6. The Plaintiff further agrees to indemnify and hold harmless the United States, its agents, officials, and employees from any and all such causes of action, claims, rights or subrogated interests arising directly or indirectly from the subject matter of this action, including any claims arising from the assignment of claims and liens upon the settlement proceeds, and further agrees to reimburse or advance, at the option of counsel for the United States, any expense or cost that may be incurred incident to or resulting from such further litigation or the prosecution of claims by the Plaintiff against any third-party.

7. Settlement of Plaintiff's claims against the United States is to be without interest or costs and inclusive of attorneys' fees in accordance with 28 U.S.C. § 2678, which provides that no attorney shall receive for services rendered fees in excess of 25 percent of any settlement, and all liens and fees are to be satisfied by Plaintiff out of the amount of this settlement.

8. This Stipulation may be signed in counterparts.

9. Plaintiff and the United States understand and agree that this Stipulation contains the entire agreement between them, and that any statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of no force or effect.

Dated: New York, New York

~~May 4~~, 2008

~~June~~

HARNICK & HARNICK, ESQ.
Attorney for Plaintiff

By:



Robert Harnick, Esq.
305 Broadway, Suite 602
New York, New York 10007
Tel.: (212) 962-5065

Dated: New York, New York

May ~~29~~, 2008


MARY A. CLARKE

Dated: New York, New York

May ~~29~~, 2008

~~June 5~~


MICHAEL J. GARCIA
United States Attorney
Southern District of New York
Attorney for the United States

By:



CAROLINA A. FORNOS
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2740
Fax: (212) 637-2702

SO ORDERED:


THE HONORABLE GERARD E. LYNCH
UNITED STATES DISTRICT JUDGE

6/10/08